



Committee on Legislative Matters and the Northampton City Council

Members:

Councilor David A. Murphy, Chair

Councilor Ryan R. O'Donnell

Councilor Gina-Louise Sciarra

Councilor James Nash

MEETING MINUTES

Date: January 9, 2017

Time: 5:30 pm

**Location: City Council Chambers
212 Main St., Northampton, Massachusetts**

- 1. Meeting Called to Order and Roll Call: At 5:30 pm Councilor Murphy called the meeting to order. Present from the Committee were Councilors Nash, Murphy, O'Donnell and Sciarra. Also present from the City Council was Councilor Marianne LaBarge.**
- 2. Public Comment – See item 17.232 below.**
- 3. Approve minutes of the November 14, 2016 meeting: Councilor O'Donnell moved to approve the minutes; Councilor Sciarra seconded the motion. The motion was approved on a voice vote of 4 Yes, 0 No.**

Items Referred to Committee

5. 16.184 - Relative to Heavy Equipment Operation

Councilor O'Donnell explained that this item went to Transportation and Parking already. The intent of the change is to remove subsection C which was established about three years ago. There are two streets that allow for heavy equipment vehicles to drive onto: Phillips Place and Lincoln Avenue. On Lincoln Avenue you can only drive in one direction. This section states that if you drive on Lincoln Avenue in the allowable direction, over and over again then you are no longer fulfilling the purpose of the ordinance and therefore you can be fined. However, the Chief of Police believes that this language is too confusing. Some officers were confused about enforcing fines on other streets and so the Chief asked that the language in subsection C be removed. Councilor O'Donnell doesn't believe that this subsection has been enforced for years.

Councilor Sciarra clarified that the police had no way of knowing if a warning was previously issued and that the tracking this information was difficult to do. In practice, officers did not feel comfortable fining someone.

Councilor O'Donnell moved to return the item to the full City Council with a positive recommendation; Councilor Sciarra seconded the motion. The motion was approved on a voice vote of 4 Yes, 0 No.

6. 16.213 RELATIVE TO PARKING ON CENTER STREET AND MARKET STREET

Councilor Sciarra pointed out that there is a map that goes along with this ordinance. She states that there was a 15 minute parking space that was removed on Center Street. This was right by the Police Center driveway and it was done at the request of the Police Chief. When that change took place, the parking space in front of the one that was removed was supposed to become the new 15 minute space; however, that has not happened yet. In the meantime, some residents on Center Street who live on the opposite side of the street in an apartment building stated that they missed a 15 minutes space because they would use it when they needed to unload groceries, etc. Therefore, instead of the space previously designated for 15 minute parking, the plan will now be to make the space between the curb cuts by TD Bank the new 15 minute space.

Regarding the space on Market Street, Councilor Sciarra explained there had been a request a few months ago to create a 15 minute space near Click Workspace. Within that area, there are several businesses and residents that would make use of a 15 minutes space, including a laundromat, a restaurant, a cafe, etc. The space that is proposed is just to the left of Click Workspace.

Councilor O'Donnell noted that these spaces received a positive recommendation from the Transportation and Parking Commission.

O'Donnell moved a positive recommendation back to the full City Council; Councilor Sciarra seconded the motion. The motion was approved on a voice vote of 4 Yes, 0 No.

7. 16.214 RELATIVE TO A YIELD SIGN ON MAPLE STREET

Councilor O'Donnell explained that if you were coming up the curve by Chemiplastica from Riverside Drive onto Nonotuck Street from Maple Street, there was a question from one of the residents as to whether a stop sign could be put at that location. The question was raised primarily due to speeding in that area. The DPW did an analysis of site lines, crash history, and traffic volume and determined that a stop sign was not warranted for this location, but a yield sign was. This does need to be done by ordinance and this is what is before the committee.

Councilor O'Donnell explained that the yield sign would be placed before you go up the hill on Maple Street.

Councilor O'Donnell moved a positive recommendation back to the full City Council; Councilor Sciarra seconded the motion. The motion was approved on a voice vote of 4 Yes, 0 No.

8. 17.232 Order to Amend City Council Rules - Referred to committee on 1/5/2017

Councilor O'Donnell explained that two Council meetings ago a technical change was made to City Council rules to change the word "referred" to the word "considered" so that orders and ordinances have to be "considered" by Legislative Matters as opposed to have to be first "referred" there. This meant that the committee could add things to their agenda and post in accordance with the open meeting laws and consider items without having been referred by City Council. Councilor O'Donnell thought that there would be more flexibility and perhaps creativity from committees if they had the power to originate ideas.

After hearing from the public and other City Councilors, Councilor O'Donnell now understands that people are more comfortable with the process of referral. Councilor O'Donnell is now attempting to switch back to the way things were done in the past. The purpose of this ordinance before the committee today will be to require items to be referred from City Council to the committee.

Councilor Murphy explained that changing back means that items will need to originate in City Council and City Council would then decide where to send the item. When those committees were done, the item would be taken up by Legislative Matters before heading back to the City Council for a vote.

Councilor O'Donnell additionally explained that the City Solicitor would be required to review the ordinance before the City Council voted on the item. This committee is responsible for working with the City Solicitor to verify legal form and character. Councilor O'Donnell notes that if this rule change is adopted, then items could not be just brought up in Legislative Matters and then sent on to City Council. Councilor O'Donnell feels that it is important for people to have confidence in the process and if this is what people want, then he does not object.

Councilor Murphy invited public comment and Mr. Anthony Patillo addressed the committee to voice concern about certain proposed language.

Mr. Patillo noted that previous versions of the Council's rules required that items be reviewed by the City Solicitor for legal form and character. This was explicitly written in the rules. The version that Mr. Patillo is looking at states that in Section 2.6.1.4.1., "Such recommendations, shall be made in consultation with the City Solicitor." Mr. Patillo reminded the committee that when the stormwater utility measure came before the Ordinance Committee, it was not reviewed for legal form and character. There were problems with the ordinance the way it was written and ended up being amended on the Council floor. It was then voted on by Council and citizens only had three minutes in which to speak to the issue. There was no give and take with the Council. Mr. Patillo wants to remain assured that citizen participation is still included as part of the process. Any new ordinance has to be reviewed for legal form and character before it goes onto the floor for a vote by City Council. He does not feel that the proposed language will meet this objective. People are concerned about transparency because of the stormwater utility fee issue. Something like that must be prevented in the future.

Mr. Patillo also raised an issue with the 45 day window in which a report must be given to Council by a multiple member body. He notes that a committee doesn't have to do anything. They could sit and watch the clock run out without considering an item that was sent to them. Councilor Murphy points out that the Legislative Matters committee is the last committee to address an item before it heads back to the full City Council. This is because this committee considers feedback from all committees before it makes a recommendation back to the full City Council.

Mr. Patillo feels strongly that a solicitor review for legal form and character is an important part of the overall process. Even in section 5.3 the wording states that the City Solicitor "'may' examine the matter's form and legal character", rather than "shall".

Councilor O'Donnell points out that the change from "shall" to "may" was recommended by the Solicitor. Because of separation of powers under the new City Charter, the City Council cannot compel the Executive side to take action. The Council cannot state that the Solicitor shall do X, Y, and Z. Councilor O'Donnell stated, however, that the Mayor may be willing to amend the Administrative Order to require the Solicitor to perform this function. Councilor O'Donnell suggested that the section could be reworded to reflect "the City Solicitor shall be requested to examine the matter's form and legal character." Mr. Patillo would like to avoid having amendments made on the Council floor where the public has no voice.

Councilor O'Donnell moved to add this amendment to the order; Councilor Sciarra seconded the motion. The motion was approved on a voice vote of 4 Yes, 0 No.

Councilor Murphy assured the committee and Mr. Patillo that before every committee meeting, he speaks with the City Solicitor about items on the agenda. They also discuss whether the Solicitor should attend the meeting. Councilor Murphy pointed out that the Solicitor will in fact discuss changes to orders and ordinances, in fact, the next item coming up on the agenda will be looked at to incorporate amendments suggested by the Solicitor.

Councilor Murphy notes that the one thing that can't be done is that the rules can't restrict Councilors from making amendments on the Council floor as long as the change is germane.

Regarding the change to add a forty five day window in which a committee can respond to an ordinance, Councilor O'Donnell asked what if in the future there was a committee with someone who really wanted to hold something up. That person may refuse to have a vote on an item, for example, and therefore the item would never go back to the Council. Perhaps it might be something that the public really wanted.

He asked the question, do you want to empower a committee to hold up something forever, or is there a window in which the clock stops? There is probably a balance because you would want a committee to do its job. Councilor Murphy suggested that in that scenario, Council could suspend Council Rules and if a $\frac{2}{3}$ vote was achieved, then the Council could send the item forward to Legislative Matters to have them act on the matter.

Councilor O'Donnell suggested that if the committee preferred, a section of the wording could be removed and could simply read, "Should a multiple-member body fail to report within forty-five days of referral to that body, the City Council shall be authorized to proceed with the matter in the absence of such a report". Councilor Murphy suggested leaving the way it is and bring the change to the full Council and ask what the preference was.

Councilor O'Donnell moved a positive recommendation back to the full City Council as amended; Councilor Sciarra seconded the motion. The motion was approved on a voice vote of 4 Yes, 0 No.

9. 17.233 An Ordinance Relative to School Zones - Referred to Committee on 1/5/2017 (and to TPC)

Councilor O'Donnell moved to place this item on the floor; Councilor Sciarra seconded the motion. The motion was approved on a voice vote of 4 Yes, 0 No.

Councilor O'Donnell explained that the changes would update and expand the school zone ordinance. One change would eliminate how school zones are established. The language in the existing ordinance tries to replicate what Mass State Law requires. The ordinance would also correct the name of the school at College Church; it would add Montessori School and Smith Campus School and it would expand the Bridge Street school zone. Councilor O'Donnell anticipates that there could be a discussion in Transportation and Parking about other school zones.

Councilor O'Donnell moved to amend the ordinance under Section 1 by deleting Section A and replacing it with Section B. This was a recommendation made by the City Solicitor. Councilor Nash seconded the motion. The motion was approved on a voice vote of 4 Yes, 0 No.

Councilor O'Donnell moved to postpone this item until the next meeting. Councilor Sciarra seconded the motion. The motion was approved on a voice vote of 4 Yes, 0 No.

Councilor Nash pointed out that regarding the Montessori school location, there seems to be a lot of choking points for commuting. He wondered whether Nonotuck School or H.E.C. Academy would qualify for a school zone to be established. Councilor O'Donnell points out that the criteria for establishing a school zone is defined in the Massachusetts Amendments to the Manual on Uniform Traffic Control Devices. The Feiker School would not qualify because the students have no reason to cross the street as there is no sidewalk on the other side. Schools must also have students in grades 1 - 8 inclusive so high schools or schools with only a kindergarten do not qualify

10. New Business: None

11. Adjourn: Councilor Sciarra moved to adjourn the meeting at 5:00 pm; Councilor O'Donnell seconded the motion. The motion was approved on a voice vote of 4 Yes, 0 No.

Prepared By:

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